



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 26

Burns Doane Swecker & Mathis
PO Box 1404
Alexandria, VA 22313-1404

COPY MAILED

OCT 20 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Theodore A. Yednock et al.
Application No. 09/127,364
Filed: July 31, 1998
Attorney Docket No. 193-US-CIP2

This is a decision on the petition under 37 CFR 1.137(b), filed September 23, 2003, to revive the above-identified application.

The petition is GRANTED.

This application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 9, 2002, which set a shortened statutory period for reply of three months from the mail date of the Notice. A three (3) month extension of time under 37 CFR 1.136(a) was submitted on January 9, 2003. Accordingly, the application became abandoned on January 10, 2003.

Petitioner has submitted a Request for Continued Examination pursuant to 37 CFR 1.114 with the instant petition. The filing of an RCE is improper when prosecution in an application is not closed. Prosecution is closed when an application is under appeal, or the last Office action is a final action, a notice of allowance, or an action that otherwise closes prosecution in the application. If the RCE request is submitted with a reply to the non-final Office action, the reply will be entered and considered under 37 CFR 1.111.

In the instant case, petitioner has submitted a reply under 37 CFR 1.111. Accordingly, the application will be forwarded to Technology Center AU 1653 for appropriate consideration of the response under 37 CFR 1.111.

The \$750 fee submitted on January 9, 2003 will be credited to petitioner's deposit account no. 02-4800.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy